

**IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA**

Civil Revision No.61 of 2006.
Date of decision: 07.09.2007.

Brijwala Gupta

....Petitioner

Versus

Raj Kumar & Another

....Respondents

Coram

The Hon'ble Mr.Justice Dev Darshan Sud,J.

Whether approved for reporting ?

For the Petitioner: Mr.Vivek Singh Thakur, Advocate.

**For the Respondent-1: Mr.R.K. Gautam, Senior Advocate
 with Mr.Anurag Sharma, Advocate.**

Dev Darshan Sud,J.

 This revision petition has been instituted against the order of the learned trial Court dismissing the application under Order 8 Rule 1(A)3 of the Code of Civil Procedure for production of additional documents filed by the defendant (who is petitioner before this Court).

 The learned trial Court while dismissing the application, held that prior to the filing of the present application another application had been filed by the petitioner-defendant under Order 11 Rule 12 of the Code of Civil Procedure for production of the documents by the plaintiffs for the very same

Whether the reporters of Local Papers may be allowed to see the judgement?

documents. The trial Court noted that this request had been disallowed and now, cannot be entertained in the application moved by the petitioner-defendant.

I have heard learned counsel for the parties and have gone through the pleadings.

The learned trial Court has taken a highly technical view of the matter in shutting out evidence at this stage of the trial. Although, the defendant should have either placed on record the documents with the written statement or at least entered them in the list of reliance, yet it would be in the interest of justice in case the documents are allowed to be produced so that the best possible evidence is available to the Court for determining the real controversy between the parties.

Of-course, this Court is not placing its seal of approval on the lackadaisical approach of the defendant in conducting his case before the learned trial Court nor can this Court countenance the cavalier attitude of the defendant, yet in the interest of justice, permission is granted to the petitioner-defendant to produce the documents as prayed for. This order will not be construed as an expression of accepting the documents or their evidentiary value by mere filing or placing them on the record. The admissibility and proof of the documents would be determined by the principles governing the law of evidence.

This revision is, accordingly, allowed subject to the condition that the petitioner-defendant will pay costs of Rs.11,000/- to the plaintiff. Costs will be paid on or before 31st October, 2007.

Parties are directed to appear before the learned trial Court on 31st October, 2007. It is clarified that in case costs are not paid, this revision will be deemed to be dismissed and the order of the learned trial Court shall revive.

September 7, 2007
(aks)

(Dev Darshan Sud)
Judge.